

CHAPTER 184
INDIVIDUAL AND FAMILY DIRECT SUPPORT

DIVISION I
FAMILY SUPPORT SUBSIDY PROGRAM

PREAMBLE

The purpose of this division is to define and structure the family support subsidy program. This program is designed to assist families in staying together by defraying some of the costs of caring for a child with special needs living at home.

441—184.1(225C) Definitions.

“Department” means the department of human services.

“Family” means a family member and the parent or legal guardian of the family member.

“Family member” means a person less than 18 years of age who by educational determination has a moderate, severe, or profound educational handicap or special health care needs or who otherwise meets the definition of developmental disability in the federal Developmental Disabilities Act, Section 102(5), as codified in 42 U.S.C. 6001(5).

“Home” means the home of the parent or legal guardian of the family member.

“Legal guardian” means a person appointed by a court to exercise powers over a family member.

“Parent” means a biological or adoptive parent.

“Supplemental Security Income (SSI)” means financial assistance provided to individuals pursuant to Title XVI of the federal Social Security Act, 42 U.S.C. Sections 1381 to 1383c.

441—184.2(225C) Eligibility requirements. A child shall be eligible for the family support subsidy program if funds are available and all of the following requirements are met:

184.2(1) The child meets the definition of family member.

184.2(2) Rescinded IAB 6/27/90, effective 7/1/90.

184.2(3) The child is currently residing in the applicant’s home, or there is a discharge plan for the child to return home in the next 60 calendar days.

184.2(4) The family resides in the state of Iowa.

184.2(5) The family’s net taxable income for the calendar year immediately preceding the date of application did not exceed \$40,000 unless it can be verified that their estimated taxable income for the year in which the application is made will be less than \$40,000.

184.2(6) The applicant agrees that, if the child receives Medicaid, the subsidy shall only be used for the cost of services which are not covered by Medicaid.

441—184.3(225C) Application process. Applications for the family support subsidy program may be obtained at the local office of the department in the county in which the family resides. Arrangements shall be made through the local office for the parent or legal guardian to meet with a trained volunteer or staff person to respond to questions.

184.3(1) A parent or legal guardian who wishes to apply shall complete Form 470-2526, Application for Family Support Subsidy, and provide the following verification for each family member for whom application is being made:

a. Verification of the family’s net taxable income for the previous calendar year, or estimated income for the current year.

b. Verification of educational or health care needs.

(1) If the child has undergone an educational evaluation and by educational determination has a moderate, severe, or profound educational handicap or special health care needs, either the child's school principal, local superintendent of schools or the director of special education for the area education association, or any person so designated by the above individuals, shall complete the educational sign-off portion of Form 470-2526, Application for Family Support Subsidy.

(2) If the child has not undergone an educational evaluation and, therefore, the parents or guardians are unable to obtain signatures on the educational sign-off portion of Form 470-2526, then the medical sign-off portion of Form 470-2526 shall be utilized. When using the medical sign-off portion of Form 470-2526, the doctor completing the form shall be familiar with the child and the definition of developmental disability as defined in the federal Developmental Disabilities Act, Section 102(5), as codified in 42 U.S.C. 6001(5), which is contained on the form itself. In addition, the doctor shall be a doctor of medicine (M.D.) or a doctor of osteopathic medicine and surgery (D.O.) and licensed to practice in the doctor's state of residence.

184.3(2) The date of application is the date that Form 470-2526 and all verifications specified in subrule 184.3(1) are received in the local office of the department. Application materials shall be processed in the office within two working days of receipt. Obtaining verifications is the responsibility of the applicant.

184.3(3) A determination of eligibility shall be made within 15 working days after the completed application and required verification are received by the department.

184.3(4) After funds appropriated for this purpose are obligated, pending applications will be denied by the district office. A denial shall require a notice of decision to be mailed within ten calendar days following the determination that funds have been obligated. The notice shall state that the applicant meets eligibility requirements but no funds are available and that the applicant will be placed on the waiting list, or that the applicant does not meet eligibility requirements. Applicants not awarded funding who meet the eligibility requirements will be placed on a statewide waiting list according to the order in which the completed applications and verification were received by the local office. In the event that more than one application is received at one time, families shall be entered on the waiting list on the basis of the day of the month of the child's birthday, lowest number being first on the waiting list. Any subsequent tie shall be decided by the month of birth, January being month one and the lowest number.

441—184.4(225C) Family support services plan.

184.4(1) The special needs of the child and the family for the subsidy, and the resources available to meet those needs shall be identified on the application form.

184.4(2) The applicant shall agree that the subsidy will be used to meet the special needs identified in the plan or other special needs of the child and family.

184.4(3) Families shall retain the greatest possible flexibility in determining use of the subsidy, except a parent or legal guardian who receives aid to dependent children shall not use the subsidy to meet the basic needs of the family as defined in 441—subrule 41.8(2) or the special needs as defined in 441—subrule 41.8(3). In addition, if the child receives Medicaid, the subsidy shall only be used for the cost of services which are not covered by Medicaid.

441—184.5(225C) Approval. Rescinded IAB 6/27/90, effective 7/1/90. Subrule 184.5(3) transferred to 184.3(4).

441—184.6(225C) Amount of subsidy payment. Families approved for payment shall receive an ongoing monthly payment which is equal to the maximum supplemental security income payment available in Iowa in effect at the beginning of each state fiscal year for an adult recipient living in the home of another. In addition, a one-time lump-sum advance payment of twice the monthly amount may be paid to the parent or legal guardian whose family member will be returning home for the purpose of preparing for in-home care. An approved subsidy shall be payable as of the first of the month following approval. A notice of decision stating that the application is approved shall be sent within two working days of the approval. The notice shall state the date payments will begin, the amount of monthly payments, and, if different, the amount of the first payment.

441—184.7(225C) Redetermination of eligibility.

184.7(1) The department shall send an application packet, which shall include instructions and necessary forms for verification of continuing eligibility, to all recipients of subsidy payments at least 30 calendar days prior to the deadline date for annual redetermination of eligibility. The completed Form 470-2526, Application for Family Support Subsidy, and required verification materials shall be submitted annually to the Department of Human Services, Division of MH/MR/DD, Hoover State Office Building, Des Moines, Iowa 50319-0114. If the signed application and verification of continuing eligibility are not received by the division by the last working day of the renewal month, the family's subsidy shall be terminated.

184.7(2) When funding allows additional individuals to be added to the subsidy program, they shall be taken from the statewide waiting list, and their eligibility shall be redetermined at that time. An application packet, which includes instructions and necessary forms for verification of continuing eligibility, shall be sent to these families for completion and returned to the Department of Human Services, Division of MH/MR/DD, Hoover State Office Building, Des Moines, Iowa 50319-0114, within timelines specified by the department. If the signed application and verification of continuing eligibility are not received by the timeline specified by the department, the family's name shall be dropped from consideration for receipt of the subsidy payments.

441—184.8(225C) Termination of subsidy payments.

184.8(1) The family support subsidy shall terminate at the end of the month in which any of the following occur and a notice shall be sent which states the reason for the termination:

- a.* The family member dies.
- b.* The family no longer meets one or more of the eligibility criteria outlined in rule 441—184.2(225C).
- c.* The parent or legal guardian has failed to provide information required for redetermination of eligibility as outlined in rule 441—184.7(225C).
- d.* No funds appropriated for this purpose are available.

184.8(2) The parent or legal guardian is required to report to the local office within ten working days any changes which may affect eligibility. Failure to do so may result in responsibility for repayment of funds and termination of the subsidy.

184.8(3) If funds are not sufficient to cover payments for all persons on the subsidy, persons will be terminated from the subsidy in inverse order to the dates they began receiving payments, i.e., the last person to be added on to the subsidy being the first person to be removed. The person terminated will move back to the waiting list with the person's original application date dictating the person's position as stated in subrule 184.3(4). The division of MH/MR/DD is responsible for notifying the persons who will be removed from the subsidy for this reason.

441—184.9(225C) Appeals. The parent or legal guardian of the child may appeal a denial of an application or termination of the subsidy payment pursuant to 441—Chapter 7.

These rules are intended to implement Iowa Code sections 225C.35 to 225C.42.

441—184.10 to 184.20 Reserved.

DIVISION II
PERSONAL ASSISTANCE SERVICES PROGRAM

PREAMBLE

The purpose of this division is to define and structure the personal assistance services pilot program. The program is designed to assist in the inclusion of persons with disabilities in the general population, community, and work force of the state by helping to defray the cost of hiring a personal care attendant. The pilot will operate in Scott, Clinton and Muscatine counties.

441—184.21(225C) Definitions.

“*County office*” means the county department office.

“*Department*” means the department of human services.

“*Disability*,” for the purposes of this program, means a physical or mental impairment that substantially limits one or more of the major life activities of the person, a record of physical or mental impairment that substantially limits one or more of the major life activities of the person, or being regarded as a person with a physical or mental impairment that substantially limits one or more of the major life activities of the person.

“*Disability*” does not include any of the following:

1. Homosexuality or bisexuality.
2. Transvestitism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders.
3. Compulsive gambling, kleptomania, or pyromania.
4. Psychoactive substance abuse disorders resulting from current illegal use of drugs.
5. Alcoholism.

“*Home*” means a person’s private home. The person may be living alone or with family or friends. “Home” does not include intermediate care facilities, intermediate care facilities for the mentally retarded, residential care facilities, residential care facilities for the mentally retarded, or other facility-owned living arrangements.

“*Personal assistance services*” means services performed by an individual to assist a person with a disability with tasks which that person would typically do if the person did not have a disability. The services are intended to enable a person with a disability to live in the person’s home or community rather than in an institutional setting and may include, but are not limited to, any of the following:

1. Dressing.
2. Bathing.
3. Access to and from bed or a wheelchair.
4. Toilet assistance, including bowel, bladder, and catheter assistance.
5. Eating and feeding.
6. Cooking and housekeeping assistance.
7. Employment support.
8. Cognitive assistance with tasks such as handling money and scheduling.
9. Fostering communication access through interpreting and reading services.

441—184.22(225C) Eligibility requirements. A person shall be eligible for the personal assistance program if funds are available and all of the following requirements are met:

184.22(1) Disability. The person has a disability which is severe and chronic and:

a. Is attributable to a mental or physical impairment or combination of mental and physical impairments and,

b. Results in a substantial functional limitation in three or more of the following areas of major life activities: self-care, receptive and expressive language, learning, mobility, capacity for independent living, and economic self-sufficiency.

184.22(2) Age. The person is at least 18 years of age.

184.22(3) Residing in own home. The person is currently residing in the person's own home, or there is a discharge plan for the person to return home in the next 60 calendar days.

184.22(4) Residency. The person has residency in Scott, Muscatine, or Clinton counties.

184.22(5) Income. The person has a taxable income of \$40,000 or less. Only the income of the person with a disability should be considered. If a joint return is filed and the person's gross income is \$40,000 or less, the person meets the income eligibility. If the person's gross income exceeds \$40,000, the person's net taxable income is computed in the same manner as on the Iowa income tax return for married filing separately on the combined return. That amount would then be reduced by the amount of the personal exemptions allowed.

184.22(6) Other programs. The person shall apply for other programs that provide assistance with personal care and home chore services prior to accessing this program and access all programs for which the person is eligible.

a. If the person is eligible for consumer-directed attendant care services under one of the home- and community-based waivers, the person must access that program. Since the waivers are Medicaid programs and Medicaid cannot be supplemented, the person would then not be eligible for the personal assistance services program.

b. If the person is eligible for in-home health-related care, the person must access that program. If, according to the person's Personal Assistance Needs Checklist, the person's allowed payment level exceeds the amount the person receives from in-home health-related care, the person is eligible for the personal assistance services program for the amount of the difference.

184.22(7) Use of funds. The person must agree that any funds received through this program shall be used solely for a personal attendant.

441—184.23(225C) Application process. Applications for the personal assistance services program may be obtained at the county office in the county in which the person resides.

184.23(1) Application forms. An application for the personal assistance services program shall be submitted on Form 470-3511, Personal Assistance Application and Disability Verification, and Form 470-0615, Application for Social Services/Title IV-A Emergency Assistance Services. Verification of disability and verification of income for the previous calendar year, or estimated income for the current year shall be submitted with the application forms.

184.23(2) Date of application. The date of application is the date that all completed required forms are received in the county office. Obtaining verifications is the responsibility of the applicant.

184.23(3) Eligibility determination. Eligibility shall be determined within 30 working days after the completed applications and required verifications are received by the department. The person shall be notified in writing of the decision of the county office regarding the person's eligibility for the program and the amount of the payment to be made.

184.23(4) Effective date. The effective date of service shall be the first of the month following the month the county determines the applicant is eligible.

184.23(5) *Program limits.* After all funds appropriated for this purpose are obligated, pending applications shall be denied by the county office. If all funds have been obligated, a notice of decision shall be mailed to the applicant within ten calendar days following the determination. The notice shall state that the applicant meets eligibility requirements but no funds are available and that the applicant will be placed on a waiting list, or that the applicant does not meet eligibility requirements. Applicants not awarded funding who meet the eligibility requirements shall be placed on a waiting list maintained by each county office.

As funds are determined available, persons shall be served from the waiting lists based on the following schedule in descending order of prioritization:

- a.* The person is working or volunteering or receiving job training or schooling. Work is defined as competitive employment or supported employment. School or training must lead to an employment goal and is included if a person requires assistance in getting the education or training, whether it is in or out of the home.
- b.* The person is at imminent risk of out-of-home placement.
- c.* The date the application forms and verification are received.
- d.* In the event that more than one application is received on the same date and all of the applicants meet the criteria set forth in paragraphs “a” and “b,” a person shall be removed from the waiting list on the basis of the day of the month of the person’s birthday, lowest number being first on the waiting list. Any subsequent tie shall be decided by the month of birth, January being month one and the lowest number.

441—184.24(225C) Amount of personal assistance services payments. The amount of the personal assistance service payments shall be determined in the following manner:

184.24(1) *Completion of checklist.* Form 470-3512, Personal Assistance Needs Checklist, shall be completed by the county worker with assistance from the applicant. Those activities with which the applicant wants to receive help shall be checked in the appropriate column. If another member of the household is either applying for the program or is already on the program, both cannot receive assistance with the same household tasks.

If help with an activity is requested, the intensity of support needs shall be indicated as minimal, moderate, or intensive.

- a.* Minimal support may include: giving instructions, prompting, or feedback; making preparations by collecting and placing materials within reach, setting up area, preparing devices, i.e., installing supplies, such as floss in a flossing aid, or adjusting settings and parts; assisting with mobility by providing balance support or coordination, pushing or moving equipment; restoring order to area by disposing of used waste items, wiping spills or soiled surfaces; and maintaining equipment and devices that require only cleaning, changing batteries or filters.
- b.* Moderate support may include: monitoring task completion assisted by instructions, prompting, or feedback; hands-on assistance with primary tasks or performing all of nonsubstantial tasks, as well as preparation and cleanup; supplement strength (such as transfers), operating equipment or devices, maneuvering demanding environmental conditions, and maintaining equipment and devices that require adjustments in tensions or pressure.
- c.* Intensive support may include: providing total assistance for the consumer who is cognitively alert but physically unable to carry out tasks and providing total or near total assistance for the consumer who is significantly cognitively disabled under the direction of a caregiver or guardian.

184.24(2) *Scoring of checklist.* The county worker shall score the Personal Assistance Needs Checklist. The tasks on the form are listed under the broad categories of personal care, household maintenance, and community living support. Each task is given a weight of 1, 2, or 3, based on whether the support needed for the task is minimal, moderate, or intensive. Personal care tasks are also given twice the weight of household maintenance and community living support tasks.

The total score determines the payment level the applicant is eligible to receive as indicated in the following table:

<u>Score</u>	<u>Level</u>	<u>Payment</u>
0 - 40	Level 1	\$200/month
41 - 75	Level 2	\$400/month
76 - 104	Level 3	\$700/month
105 +	Level 4	\$1,000/month

A copy of Form 470-3512, Personal Assistance Needs Checklist, may be obtained from the county office of participating counties.

441—184.25(225C) *Redetermination of eligibility.* The county office shall send Form 470-3513, Personal Assistance Reapplication, which shall include instructions and necessary forms for verification of continuing eligibility, to all program participants at least 30 calendar days prior to the deadline date for annual redetermination of eligibility. If the signed application and verification are not received in the county office by the time designated in the reapplication letter, the person shall be terminated from the program.

The Personal Assistance Needs Checklist, Form 470-3512, shall be reviewed at least annually. If the person's needs have changed due to, but not limited to, increasing disability, an improvement in ability or a change in environment, a new form shall be completed and payment levels redetermined.

441—184.26(225C) *Employment of attendant.*

184.26(1) *Responsibility of person.* It is the responsibility of the person to locate, hire, train and supervise the person's own attendant. If the person desires assistance in locating, training or employing an attendant, the department may assist by providing written material or referring the person to local or state resources such as, but not limited to, centers for independent living, the division of vocational rehabilitation services, or home health care agencies.

184.26(2) *Contract.* The person shall have a written contract with each of the person's attendants. A sample contract shall be provided to the person for the person's use. Any contract used should include: the scope of services; the duties of the employer; the duties of the attendant; payment of services; emergency, illness, or absence procedures; how services are terminated; and by whom and how the attendant will be trained. Any contract is between the person and the person's attendant, not between the department and the attendant. The person shall provide a copy of each contract to the department.

441—184.27(225C) *Termination of payments.*

184.27(1) *Reasons for termination of payments.* The personal assistance services payments shall terminate at the end of the month in which any of the following occur. A notice shall be sent identifying the reason for the termination.

- a. The person no longer meets one or more of the eligibility criteria outlined in rule 441—184.22(225C).
- b. The person has failed to provide information required for redetermination of eligibility as outlined in rule 441—184.25(225C).
- c. The person has died.
- d. The person does not use the funds for their intended purpose.

184.27(2) *Reporting requirements.* The person is required to report to the county office within ten working days any changes which may affect eligibility. Failure to do so may result in responsibility for repayment of funds and termination of the payments.

184.27(3) *Insufficient funding.* If funds are not sufficient to cover payments for all persons on the program, payments to persons will be terminated from the program in inverse order to the dates they began receiving payments, i.e., the last person to be added to the program will be the first person to be removed. The name of any person whose payment was terminated shall be put on the waiting list. The county office is responsible for notifying the person whose payment from the program was terminated for this reason.

441—184.28(225C) *Appeals.* The person may appeal a denial of an application, termination of the payments or any decision pursuant to 441—Chapter 7.

441—184.29(225C) *Allocation of appropriation.* The appropriation shall be distributed to each of the counties in the pilot program based on their share of the total population of all of the counties in the program.

441—184.30(225C) *Coordination of personal assistance activities.* The personal assistance and comprehensive family support services council shall oversee the activities of the personal assistance services program and provide coordination with and information to other programs which provide services to people with disabilities.

These rules are intended to implement Iowa Code section 225C.46.

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